

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stanislav Sazonov	Team: Team # 4	CCRB Case #: 201307968	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 08/12/2013 12:01 AM	Location of Incident: Rockaway Boulevard and Guy R. Brewer Boulevard	Precinct: 105	18 Mo. SOL 2/12/2015	EO SOL 2/12/2015	
Date/Time CV Reported Thu, 08/29/2013 12:59 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 08/29/2013 12:59 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Thomas Fitzgerald	15621	944061	105 PCT
2. POM Michael Whooley	06036	943951	105 PCT
3. An officer			105 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Christophe Noll	02470	948110	105 PCT
2. SGT Jennifer Limage	00907	934658	105 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Abuse: An officer threatened § 87(2)(b) with the use of force.	
B.POM Michael Whooley	Force: PO Michael Whooley used physical force against § 87(2)(b)	
C.POM Thomas Fitzgerald	Force: PO Thomas Fitzgerald used physical force against § 87(2)(b)	
D.POM Michael Whooley	Force: PO Michael Whooley struck § 87(2)(b) with a gun.	

Case Summary

On August 29, 2013, § 87(2)(b) § 87(2)(b) § 87(2)(b), filed this complaint on behalf of § 87(2)(b) who is a resident at § 87(2)(b), via the Call Processing System (CPS) (encl. 4A-4C). § 87(2)(b) did not witness the incident.

On August 12, 2013, at approximately 12:00 a.m., § 87(2)(b) was stopped by FDNY firefighter § 87(2)(b) in the vicinity of Rockaway Boulevard and Guy R. Brewer Boulevard, in Queens. PO Michael Whooley, PO Thomas Fitzgerald, PO Christopher Noll and Sgt. Jennifer Limage from the 105th Precinct responded. The following allegations resulted:

- **Allegation A – Abuse of Authority: An officer threatened § 87(2)(b) with the use of force.**
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
- **Allegation B – Force: PO Michael Whooley used physical force against § 87(2)(b)**
§ 87(2)(b)
- **Allegation C – Force: PO Thomas Fitzgerald used physical force against § 87(2)(b)**
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
- **Allegation D – Force: PO Michael Whooley struck § 87(2)(b) with a gun.**
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

This case was not eligible for mediation.

§ 87(2)(g)

Results of Investigation

Civilian Statements

Victim: § 87(2)(b)

- § 87(2)(b) is an § 87(2)(b)-old black male, 6'2" tall, 175 pounds, with black hair and brown eyes. § 87(2)(b)

CCRB Statement:

§ 87(2)(b) was interviewed on October 22, 2013, at § 87(2)(b) § 87(2)(b) (encl. 6A-6F).

On August 12, 2013, at approximately 12:00 a.m., § 87(2)(b) went absent without leave from § 87(2)(b) § 87(2)(b), and ran in the direction of Rockaway Boulevard and Guy R. Brewer Boulevard, in Queens. While § 87(2)(b)

§ 87(2)(b) ran on the side of Rockaway Boulevard, a male, who was identified by the CCRB investigation as § 87(2)(b) stopped and exited his car. § 87(2)(b) ran for approximately five minutes and said that the airport was close by. § 87(2)(b) did not know § 87(2)(b) and had never seen him before. § 87(2)(b) was described as a black male who drove a black Chevy Camaro. § 87(2)(b) identified himself as a firefighter, asked § 87(2)(b) to approach him, and § 87(2)(b) tried to run away. § 87(2)(b) then observed a female who worked at his residence, who was identified via the CCRB investigation as § 87(2)(b). § 87(2)(b) stopped by § 87(2)(b) who went to the trunk of his car and obtained a small to medium size tool with which one fixes cars. § 87(2)(b) then called 911. § 87(2)(b) explained that § 87(2)(b) called 911 because § 87(2)(b) ran “through the highway.”

Two marked patrol cars with approximately four uniformed officers arrived at the scene. § 87(2)(b) was still in the street when the officers pulled up. Later in the interview § 87(2)(b) said that one patrol car responded initially with two uniformed police officers followed by another one a few minutes later. Even though § 87(2)(b) said that there were four police officers at the scene, he could only describe two of them. The first officer, who was identified via the CCRB investigation as PO Thomas Fitzgerald from the 105th Precinct, was described as a stocky white male, approximately 6’3” tall, with short black hair. The second officer, who was identified via the CCRB investigation as PO Michael Whooley from the 105th Precinct, was described as a stocky white male who was significantly shorter than PO Fitzgerald and wore glasses. § 87(2)(b) could not describe Fitzgerald and PO Whooley any further. § 87(2)(b) had left the location by the time the officers arrived.

PO Whooley told § 87(2)(b) to stop, and § 87(2)(b) walked away. PO Whooley instructed § 87(2)(b) to stop again, and § 87(2)(b) stopped. § 87(2)(b) was not doing anything when he was instructed to stop. One of the officers, § 87(2)(b) did not know which one, told § 87(2)(b) that he was going to hit him with his gun and threatened to kill him. PO Whooley approached § 87(2)(b) and pushed him in the back with both hands. § 87(2)(b) fell down on the ground and hit his chin. However, earlier in the interview § 87(2)(b) said that PO Whooley grabbed one of his legs, causing him to fall down and hit his chin on the ground. § 87(2)(b) fell on his left side and his left arm made contact with the ground. No other part of § 87(2)(b)’s body made contact with the ground aside from his chin and left arm. § 87(2)(b) sustained a superficial scratch to his chin. § 87(2)(b) asked PO Whooley why he was attacking him when he had not done anything to the officer. PO Whooley did not respond.

PO Whooley and PO Fitzgerald began punching and kicking § 87(2)(b) in the head and torso. § 87(2)(b) was in the street when he was being punched and kicked. PO Whooley and PO Fitzgerald did not say anything to § 87(2)(b) before they physically assaulted him. PO Whooley and PO Fitzgerald kicked § 87(2)(b) approximately 16 times. Later in the interview, § 87(2)(b) said that he was kicked after he was handcuffed. § 87(2)(b) was kicked in his stomach, ribs and groin area. § 87(2)(b) did not know which officer kicked him in his groin, and he did not know how many times he was kicked there.

§ 87(2)(b) “fought for his life.” When asked to describe, § 87(2)(b) said that he was shaking and that his hands were in handcuffs. § 87(2)(b) then stated he tried to push the officers away because they were punching him in his ribs. § 87(2)(b) did not kick the officers and said he “was not fighting them.”

PO Whooley took out his gun and struck § 87(2)(b) on the right side of his head approximately three times, causing § 87(2)(b) to lose consciousness. PO Whooley and PO Fitzgerald said something to § 87(2)(b) as they struck him but he could not hear them because he was unconscious. § 87(2)(b) was handcuffed by PO Whooley after having been struck in the head. § 87(2)(b) did not sustain any other injuries to the right side of his head besides the loss of consciousness. § 87(2)(b) did not see § 87(2)(b) when he was being assaulted.

§ 87(2)(b) was placed in the patrol car. He did not know who placed him there or why he was placed there. Approximately ten minutes later about three additional officers, PO1, PO2 and PO3, arrived in patrol cars. PO1 was described as stocky black male who was shorter than PO Whooley and had short black hair. § 87(2)(b) then changed his statement and said that he was on the ground unconscious in handcuffs when the additional officers arrived. § 87(2)(b) could not describe PO2 or PO3. The CCRB investigation determined that one patrol car containing Sgt. Jennifer Limage and Christopher Noll from the 105th Precinct were the only additional officers who responded to the scene.

An ambulance also arrived and § 87(2)(b) was placed in the ambulance from the patrol car. § 87(2)(b) did not know who placed him in the ambulance. PO Fitzgerald punched § 87(2)(b) in the head and twice in the nose while inside the ambulance, causing his nose to bleed. An EMT, who was identified by the CCRB investigation as § 87(2)(b) witnessed the punches but did not say anything. EMT § 87(2)(b) was described as a slim white female with long hair and a little shorter than PO Fitzgerald. EMT § 87(2)(b) was sitting in the back of the ambulance when she witnessed PO Fitzgerald's punches. § 87(2)(b) did not see any civilians at the scene at that point.

§ 87(2)(b) stated that after he lost consciousness, he awakened at a hospital. § 87(2)(b) could not respond to anyone because he was "out of it." § 87(2)(b) explained that he was staring at the sky and the ceiling, and he felt like he was stuck to the ground and unable to move. However, earlier in the interview § 87(2)(b) described that he was assaulted in the ambulance. When asked how § 87(2)(b) was able to know what was happening to him, § 87(2)(b) said that he was not completely out of consciousness. § 87(2)(b) recalled that PO3 traveled with him in the ambulance to the hospital. PO3 did not have any interaction with § 87(2)(b) and no additional officer interacted with him at the scene. However, the CCRB investigation determined that PO Whooley rode with § 87(2)(b) in the ambulance to § 87(2)(b).

At the hospital, § 87(2)(b) was diagnosed with a fractured rib on the right side as a result of being kicked. § 87(2)(b)'s groin area got swollen as a result of being kicked as well. No other officers besides PO Fitzgerald and PO Whooley assaulted § 87(2)(b). § 87(2)(b) denied punching or trying to harm any officer. § 87(2)(b) did not try to harm § 87(2)(b) or any of the civilians.

Witness: § 87(2)(b)

- § 87(2)(b) is § 87(2)(b)-old black male, 5'9" tall, 165 pounds, with brown eyes and a completely bald head. § 87(2)(b)

CCRB Statement

§ 87(2)(b) provided a telephone statement on February 19, 2014, and was interviewed at the CCRB on February 28, 2014 (encl. 11A-12E). § 87(2)(g)

On August 12, 2013, at approximately 12:00 a.m., § 87(2)(b) was driving home at approximately 50 miles per hour in the vicinity of Rockaway Boulevard and Guy R. Brewer Boulevard, in Queens. It was dark outside when he saw a white shirt emerge from the dark. § 87(2)(b) saw that it was an individual, known to the CCRB as § 87(2)(b) running toward his vehicle. § 87(2)(b) swerved his car to the right to avoid collision. § 87(2)(b) was very close to his vehicle because § 87(2)(b) would have struck § 87(2)(b) had he not swerved. § 87(2)(b) proceeded to drive away and saw in the rear view mirror § 87(2)(b) show him the middle finger. § 87(2)(b)'s actions led § 87(2)(b) to believe that § 87(2)(b) was high on drugs, and § 87(2)(b) made a U-turn to try to help § 87(2)(b).

On his way back, § 87(2)(b) called 911 to report § 87(2)(b). As § 87(2)(b) pulled up, he saw § 87(2)(b) run away from § 87(2)(b). § 87(2)(b) was not saying anything as he ran. § 87(2)(b) drove past § 87(2)(b) and cut him off. § 87(2)(b) exited his vehicle with a steering wheel lock in his hand for protection. § 87(2)(b) was parked on the westbound left lane on Rockaway Boulevard.

§ 87(2)(b) kept § 87(2)(b) away from the traffic so that § 87(2)(b) did not cause a motor vehicle accident. § 87(2)(b) told § 87(2)(b) to relax, to stay calm and to remain where he was. § 87(2)(b) did not remember if § 87(2)(b) said anything in response. As § 87(2)(b) gave the description of § 87(2)(b) to the 911 operator, another car pulled up behind § 87(2)(b)s. A female, known to the CCRB as § 87(2)(b) exited her car screaming, “§ 87(2)(b) how did you get here?” § 87(2)(b) responded but his speech was not clear and slurred and it appeared to § 87(2)(b) that § 87(2)(b) was on drugs. § 87(2)(b) was at the scene for approximately three to four minutes before § 87(2)(b) arrived.

§ 87(2)(b) informed § 87(2)(b) that he was § 87(2)(b). § 87(2)(b) told § 87(2)(b) that she was coming home from work where § 87(2)(b) escaped from. § 87(2)(b) asked where § 87(2)(b) worked, and she said § 87(2)(b).

§ 87(2)(b) said that he wanted to hurt § 87(2)(b) before § 87(2)(b) hurt him, which led § 87(2)(b) to believe that § 87(2)(b) felt threatened by him. § 87(2)(b) also appeared to be agitated because he was rocking and shifting back and forth. § 87(2)(b) was approximately a car length away from § 87(2)(b) when he expressed his intent to hurt § 87(2)(b). While § 87(2)(b) was on the phone with the 911 operator, § 87(2)(b) walked across Rockaway Boulevard disregarding the vehicular traffic and picked up a “four by four” stick. Approximately two vehicles had to swerve around § 87(2)(b) when he crossed Rockaway Boulevard. § 87(2)(b) tried to explain to § 87(2)(b) that § 87(2)(b) was there to help him. § 87(2)(b) then called her director and placed her on speaker phone. The director spoke to § 87(2)(b) and tried to keep him calm.

Approximately fifteen minutes later, a patrol car containing two uniformed police officers, identified by the CCRB investigation as PO Michael Whooley and PO Thomas Fitzgerald from the 105th Precinct, pulled up on the opposite side of Rockaway Boulevard. PO Whooley exited the vehicle and approached the scene. PO Fitzgerald drove to the next opening to make a turn due to the divider separating Rockaway Boulevard. PO Whooley was described as an average built white male in his mid-30s, approximately 5’9” tall and with thinning hair. PO Fitzgerald was described only as a white male with a full set of hair.

§ 87(2)(b) was standing approximately six feet from § 87(2)(b) when he observed PO Whooley’s interaction with him. PO Whooley instructed § 87(2)(b) to put the stick down, and § 87(2)(b) complied. PO Whooley instructed § 87(2)(b) to get down on the ground, and § 87(2)(b) got on his knees. § 87(2)(b) and § 87(2)(b) explained to PO Whooley what happened as PO Whooley was interacting with § 87(2)(b). PO Whooley did not have anything in his hands when he approached § 87(2)(b). PO Whooley did not have his firearm out, and § 87(2)(b) did not see PO Whooley point his gun at § 87(2)(b). § 87(2)(b) did not see PO Whooley push § 87(2)(b) to the ground, and he did not see PO Whooley pull § 87(2)(b)s feet from under him. § 87(2)(b) did not see § 87(2)(b) lying down on the ground.

PO Fitzgerald pulled up to the scene while PO Whooley handcuffed § 87(2)(b). PO Whooley did not have any difficulty handcuffing § 87(2)(b). PO Whooley and PO Fitzgerald helped § 87(2)(b) up and placed him in the patrol car. As § 87(2)(b) was explaining to the officers what happened, § 87(2)(b) tried to kick out a window in the patrol car. PO Whooley and PO Fitzgerald pulled out § 87(2)(b) from the patrol car feet first because § 87(2)(b)s feet were at the door. § 87(2)(b) tried to keep § 87(2)(b) calm by telling him to relax and that

the officers were there to help him. § 87(2)(b) did not see § 87(2)(b) kick the officers when they pulled him out. § 87(2)(b) did not see how § 87(2)(b) was positioned after he was out of the patrol car because he was standing at a distance and could not see § 87(2)(b). § 87(2)(b) did not hear the officers issue any instructions to § 87(2)(b). § 87(2)(b) kept telling § 87(2)(b) to calm down but § 87(2)(b) did not know why.

PO Whooley and PO Fitzgerald wrestled down § 87(2)(b) and held him down. An ambulance and an additional patrol car with two officers, identified via the CCRB investigation as PO Christopher Noll and Sgt. Jennier Limage from the 105th Precinct, arrived. § 87(2)(b) could not describe PO Noll or Sgt. Limage. § 87(2)(b) observed that an ambulance lieutenant, whose name § 87(2)(b) did not know, also pulled up. § 87(2)(b) knew the individual was a lieutenant because he has seen him in the area where he works on prior occasions. § 87(2)(b) did not see § 87(2)(b) go inside the ambulance because it was blocking his view. § 87(2)(b) asked either one of the officers or the lieutenant if he was needed at the scene, and was told no. § 87(2)(b) then left the scene.

§ 87(2)(b) did not hear any officer threaten to kill § 87(2)(b). § 87(2)(b) did not see any officer strike § 87(2)(b) with his firearm. § 87(2)(b) did not see any officer punch or kick § 87(2)(b) in the head or torso. § 87(2)(b) did not see § 87(2)(b) get kicked in his stomach, ribs or groin area. § 87(2)(b) did not see § 87(2)(b) bleed or lose his consciousness.

Witness: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old black female, who is 5'11" tall, 290 pounds, with brown hair and brown eyes. § 87(2)(b)

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on January 14, 2014 (encl.7A-7E). § 87(2)(g)

On August 12, 2013, at approximately 12:00 a.m., § 87(2)(b) was driving home from work in the vicinity of Rockaway Boulevard and Guy R. Brewer Boulevard, in Queens. § 87(2)(b) was traveling when she saw § 87(2)(b) running. § 87(2)(b) was running northbound on a southbound lane of Rockaway Boulevard. § 87(2)(b) was wearing basketball shorts, sneakers and a t-shirt. § 87(2)(b) did not remember the color of the shorts and the t-shirt. § 87(2)(b) recognized § 87(2)(b) because she works at § 87(2)(b) where § 87(2)(b) resides. § 87(2)(b) knew that § 87(2)(b) was absent without leave on the day of the incident.

§ 87(2)(b) traveled down Rockaway Boulevard and made a U-turn at the next available opening. § 87(2)(b) pulled up behind a vehicle and turned on the hazard lights on. § 87(2)(b) saw § 87(2)(b) and § 87(2)(b) behind her vehicle. § 87(2)(b) exited her vehicle and asked § 87(2)(b) what was he doing there and that he was far from his home.

§ 87(2)(b) became aggressive toward § 87(2)(b) who had a steering wheel lock in his hand. § 87(2)(b) did not do anything with the lock other than holding it in his hand. § 87(2)(b) said that § 87(2)(b) tried to hurt him, and § 87(2)(b) said to the contrary that § 87(2)(b) tried to help. § 87(2)(b) tried to talk to § 87(2)(b) to calm him down and called the police. § 87(2)(b) did not hear what information § 87(2)(b) relate to a 911 operator.

While § 87(2)(b) was on the phone with 911, he told § 87(2)(b) that he saw § 87(2)(b) running on Rockaway Boulevard hopping the divider between the northbound and the southbound lanes, and informed § 87(2)(b) that he was an off-duty firefighter. § 87(2)(b) called SCO Family of Services to tell them the whereabouts of § 87(2)(b).

§ 87(2)(b) ran across Rockaway Boulevard to pick up a stick and returned with it to confront § 87(2)(b). The stick was approximately two feet long and the circumference was approximately three inches. § 87(2)(b) interfered and told § 87(2)(b) that he was not going to use it on anyone, and told him to calm down. § 87(2)(b) complied.

A patrol car containing PO Whooley and PO Fitzgerald pulled up to the scene. § 87(2)(b) did not remember how long it took the officers to respond. § 87(2)(b) did not remember if § 87(2)(b) had the stick in his hand when the officers arrived. PO Fitzgerald, who was identified by § 87(2)(b) who read his name off of his uniform, was a young, average built white male, approximately 5'9" tall, and with short hair. PO Whooley was described as a white male, heavier than PO Fitzgerald, and had short dark hair. One of the officers asked what happened, and § 87(2)(b) explained.

PO Fitzgerald told § 87(2)(b) to calm down and asked him to get off the street. PO Fitzgerald grabbed § 87(2)(b) by his arm and pulled him to the right on the sidewalk. The CCRB investigation determined that PO Whooley was the officer who interacted with § 87(2)(b) and escorted him off the street. § 87(2)(b) cursed at § 87(2)(b) "He was trying to fucking hit me." § 87(2)(b) did not know why § 87(2)(b) said that. PO Fitzgerald spoke to § 87(2)(b) and § 87(2)(b) about what happened. § 87(2)(b) was handcuffed but § 87(2)(b) did not know if § 87(2)(b) was handcuffed in the street or on the sidewalk, and she did not know which officer did so. § 87(2)(b) told PO Fitzgerald that § 87(2)(b) was absent without leave from a mental health facility and that there was a missing persons report filed in regards. § 87(2)(b) did not hear the conversation between PO Whooley and § 87(2)(b).

§ 87(2)(b) went to move her car to the right side of the street after speaking to PO Fitzgerald. § 87(2)(b) did not know where PO Fitzgerald went after she spoke to him. When § 87(2)(b) exited her vehicle, she saw § 87(2)(b) in handcuffs already in the patrol car. § 87(2)(b) did not recall if any officer pulled § 87(2)(b) by his legs while he was standing, causing him to fall on the ground. § 87(2)(b) did not see how § 87(2)(b) was placed in the patrol car. § 87(2)(b) did not see any officer push § 87(2)(b) on his back, causing him to fall down.

§ 87(2)(b) began kicking a window inside the patrol car with both legs. § 87(2)(b) did not remember how many times § 87(2)(b) kicked the window but said it was more than once. § 87(2)(b) may have been asking to let him out. One or two officers went to pull § 87(2)(b) out of their patrol car, when another patrol car, containing Sgt. Limage and PO Noll, arrived. § 87(2)(b) described one of the additional officers as an average built black male, approximately 5'5" to 5'7" tall, and with short dark hair. The other additional officer was described as a white male who was taller than his black male partner. An ambulance with two EMTs also arrived, who were identified via the CCRB investigation as § 87(2)(b) and § 87(2)(b). EMT § 87(2)(b) was described as a hefty Hispanic female, approximately 5'6" tall, and with long dirty blond hair. EMT § 87(2)(b) was only described as a male. § 87(2)(b) was unable to see how the officer pulled out § 87(2)(b) because she stood facing the door of the patrol car, which was open, and had the officers' backs toward her. § 87(2)(b) believed that § 87(2)(b) had left the scene by the time the ambulance arrived.

§ 87(2)(b) was on his feet once out of the patrol car but then he was placed on the ground and all four officers restrained him. § 87(2)(b) did not see what actions the officers took to place § 87(2)(b) on the ground. § 87(2)(b) lay on his back. Two officers held § 87(2)(b)'s legs, while the other two officers held his torso. Two of the officers were on § 87(2)(b)'s left side, and the other two officers were on his right. § 87(2)(b) did not see the officers flip § 87(2)(b) onto his stomach. § 87(2)(b) was not sure if the officers issued § 87(2)(b) any instructions, and she did not remember what § 87(2)(b) said. § 87(2)(b) did not see any officer punch or kick § 87(2)(b). § 87(2)(b) did not see any officer take out his firearm, and she did not see any officer strike § 87(2)(b) on his head with a firearm. § 87(2)(b)

§ 87(2)(b) did not remember if any officer threatened to kill § 87(2)(b)

EMT § 87(2)(b) spoke to § 87(2)(b) who provided the EMT with § 87(2)(b)'s name, address and telephone number to the mental health facility. § 87(2)(b) asked EMT § 87(2)(b) where they were taking § 87(2)(b) and she said § 87(2)(b). EMT § 87(2)(b) told § 87(2)(b) to leave since she was not a family member of § 87(2)(b) and § 87(2)(b) complied. Before § 87(2)(b) left, she saw all four officers with § 87(2)(b) in the ambulance. It looked like there was a struggle because she saw the officers holding down § 87(2)(b) who was screaming. § 87(2)(b) did not remember what § 87(2)(b) yelled out, and she did not see how the officers got § 87(2)(b) inside the ambulance.

§ 87(2)(b) did not see any injuries on § 87(2)(b) when she first encountered him or after he was on the ground. § 87(2)(b) did not see § 87(2)(b) lose his consciousness while she was at the scene. § 87(2)(b) did not see any officer take actions that would cause § 87(2)(b) to lose his consciousness. § 87(2)(b) did not see § 87(2)(b) bleed from his nose.

Witness: EMT § 87(2)(b)

- § 87(2)(b) is § 87(2)(b)-old white female, 5'8" tall, 185 pounds, with brown hair and brown. § 87(2)(b) is employed as an Emergency Service Technician with § 87(2)(b)

CCRB Statement

EMT § 87(2)(b) was interviewed at the CCRB on March 20, 2014 (encl. 13A-13D).

On August 12, 2013, at approximately 12:00 a.m., EMT § 87(2)(b) and her partner, EMT § 87(2)(b) responded to a report of an individual who was throwing himself in front of vehicles in the vicinity of Rockaway Boulevard and Guy R. Brewer Boulevard, in Queens. EMT § 87(2)(b) did not remember if there was any additional information provided in regards to the incident.

Upon arrival, EMT § 87(2)(b) observed approximately four uniformed police officers, PO Whooley, PO Fitzgerald, PO Noll and Sgt. Limage, trying to restrain § 87(2)(b). One of the officers was described as a white male in his late 20s to early 30s and approximately 5'8" tall. The other three officers were described as white males in their late 20s to early 30s. EMT § 87(2)(b) could not describe the officers any further.

PO Whooley, PO Fitzgerald, PO Noll and Sgt. Limage were restraining § 87(2)(b) by holding him down to the ground. EMT § 87(2)(b) did not see the officers do anything else. EMT § 87(2)(b) did not see if § 87(2)(b) was in handcuffs at that point. § 87(2)(b) was throwing himself around, kicking, flailing and spitting. Two of the officers held § 87(2)(b) by the upper part of his body, while the other two officers held down § 87(2)(b)'s legs. § 87(2)(b) was screaming but not anything in particular. EMT § 87(2)(b) did not see any civilian at the scene.

EMT § 87(2)(b) did not see any officer with their gun out, and she did not see any officer point their gun at § 87(2)(b). EMT § 87(2)(b) did not see any officer strike § 87(2)(b) with a gun. EMT § 87(2)(b) did not see any officer push § 87(2)(b) to the ground, and she did not see any lacerations to § 87(2)(b)'s chin.

EMT § 87(2)(b) and EMT § 87(2)(b) brought a stretcher with them and all four officers placed § 87(2)(b) on the stretcher. § 87(2)(b) was still screaming, kicking and flailing. PO Fitzgerald, PO Whooley, PO Noll and Sgt. Limage lifted § 87(2)(b) off the ground and placed him on the stretcher. § 87(2)(b) was in handcuffs when he was on the stretcher. In the process of being laid on the stretcher, § 87(2)(b) kicked one of the officers in the upper body. PO Fitzgerald, PO Whooley, PO Noll and Sgt. Limage had to continue restraining § 87(2)(b) to the stretcher by holding him down.

§ 87(2)(b) was rolled to the ambulance, which was parked a couple of feet away from

the arrest scene, and placed inside. EMT § 87(2)(b) was the technician that day and went in the ambulance with § 87(2)(b). EMT § 87(2)(b) saw § 87(2)(b)'s nose bleed which stopped by itself. EMT § 87(2)(b) did not know what caused § 87(2)(b)'s nose to bleed. EMT § 87(2)(b) did not see § 87(2)(b) go unconscious. EMT § 87(2)(b) did not see officers take any actions that would cause § 87(2)(b)'s nose to bleed or go unconscious. EMT § 87(2)(b) did not see any officer punch § 87(2)(b). EMT § 87(2)(b) went to the driver side and transported § 87(2)(b) to § 87(2)(b).

Witness: EMT § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old male, 6'2" tall, 249 pounds, with black hair and brown eyes. § 87(2)(b) is employed as an Emergency Service Technician § 87(2)(b).

CCRB Statement

EMT § 87(2)(b) was interviewed at the CCRB on March 14, 2014 (encl. 14A-14E). § 87(2)(g)

EMT § 87(2)(b) could not describe any of the officers besides saying that one was white, one was brown and another one was black. Two of the officers were males but the gender of the other two EMT § 87(2)(b) did not remember. Two of the officers held § 87(2)(b) down, while the other two were immobilizing § 87(2)(b) by holding his legs. Specifically, one officer had his knee on the back of § 87(2)(b)'s neck; another officer held § 87(2)(b)'s arms by his triceps. EMT § 87(2)(b) could not estimate for how the officer had his knee on the back of § 87(2)(b)'s neck. § 87(2)(b) was moving around while on the ground and appeared to be handcuffed based on the way he was positioned with his arms behind his back. EMT § 87(2)(b) did not remember if § 87(2)(b) was spitting at the officers.

It was difficult for EMT § 87(2)(b) and EMT § 87(2)(b) to establish contact with § 87(2)(b) because the officers were holding him face down while § 87(2)(b) was wiggling, shaking and making animalistic sounds that resembled barking. EMT § 87(2)(b) asked the officers what was going on, and was told that they had "a wild one" or "an active one." Two officers who were by § 87(2)(b)'s legs began stomping on the back of his knees with the bottom of their boots and told him to stop moving a couple of times. EMT § 87(2)(b) could not estimate how many times § 87(2)(b) was stomped.

EMT § 87(2)(b) told the officers that § 87(2)(b) had to go in the ambulance and pulled out the stretcher from the ambulance that was parked a couple of feet away. § 87(2)(b) was in handcuffs and had his arms behind his back when two officers yanked him up by the handcuffs, causing § 87(2)(b)'s wrists almost rise to the level of his shoulders. § 87(2)(b) was then picked up and placed on the stretcher. § 87(2)(b) was still shaking and kicking and one of his kicks connected with one of the officers. EMT § 87(2)(b) did not see where the officer got kicked but said it was somewhere in the upper body.

The officers shouted that § 87(2)(b) kicked him, and all four officers, PO Whooley, PO Fitzgerald, PO Noll and Sgt. Limage, began striking § 87(2)(b) along his spine beginning from the back of his neck down to his hips. The officers had their hands clasped together (with their fingers interlocked) in a vertical position and hammer-fisted his back and the back of § 87(2)(b)'s knees. EMT § 87(2)(b) could not estimate how many times § 87(2)(b) was struck but said it was less than ten times. The officers then flipped § 87(2)(b) onto his back. One of the officers grabbed § 87(2)(b) by his head and said, "You piece of shit. We are going to get you in this ambulance. Stop resisting." EMT § 87(2)(b) did not remember if the officer who made the discourteous statement was black or white.

EMT § 87(2)(b) was informed by the officers that § 87(2)(b) was from a § 87(2)(b).

and that there was an employee from the facility at the scene who identified § 87(2)(b) and informed the officers of such. However, EMT § 87(2)(b) did not see any civilians at the scene. § 87(2)(b) was placed in the ambulance where he began to exhibit seizure-like activity. EMT § 87(2)(b) described that § 87(2)(b) had a positive focal stare and began to convulse which was indicative of a seizure.

EMT § 87(2)(b) had to transport § 87(2)(b) as a priority patient to § 87(2)(b)

EMT § 87(2)(b) did not remember observing any injuries on § 87(2)(b). EMT § 87(2)(b) did not remember seeing any cuts to § 87(2)(b)'s chin. EMT § 87(2)(b) did not see any officer pull out his firearm, and he did not see any officer strike § 87(2)(b) with his firearm. EMT § 87(2)(b) did not see any officer punch § 87(2)(b) with fists. EMT § 87(2)(b) did not see § 87(2)(b) go unconscious but reiterated that § 87(2)(b) had a positive focal stare. EMT § 87(2)(b) did not see the officers use any additional physical force against § 87(2)(b) besides what he described.

Witness: § 87(2)(b)

§ 87(2)(b) was identified via the Event Information. § 87(2)(b) provided a brief telephone statement on February 14, 2014 (encl. 8A). § 87(2)(g)

§ 87(2)(b) stopped at a light and looked down while waiting for the light to change. There was another vehicle to the right of § 87(2)(b) also waiting for the light to change. When the light changed, § 87(2)(b) proceeded when he suddenly had to swerve because a tall black male individual, § 87(2)(b) jumped in front of his car. § 87(2)(b) was less than five feet away from § 87(2)(b)'s car. The driver who was to the right of § 87(2)(b) also swerved away from § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) looked back at § 87(2)(b) and told him to get off the street. § 87(2)(b) began mumbling something and it appeared to § 87(2)(b) that § 87(2)(b) was "not totally there" or on some drugs. § 87(2)(b) then began moving toward other. The vehicles were traveling approximately thirty miles per hour. § 87(2)(b) did not remember what § 87(2)(b) was wearing that day. § 87(2)(b) did not see any police officers at the scene, and he did not see any vehicles parked nearby.

Witness: § 87(2)(b)

§ 87(2)(b) was identified via the Event Information. § 87(2)(b) provided a brief telephone statement on February 14, 2014. § 87(2)(g)

§ 87(2)(b) was traveling in the middle lane at approximately 40 to 45 miles per hour. There were approximately three to five vehicles in front of § 87(2)(b) when he saw the vehicle in front of him swerve. § 87(2)(b) thought that the driver was trying to change lanes but he saw § 87(2)(b) walk from the right lane onto the middle lane on Rockaway Boulevard. § 87(2)(b) was leaning forward as he was walking. It appeared to § 87(2)(b) that § 87(2)(b) was not intoxicated because he walked fast for someone who would be drunk. Instead, § 87(2)(b) was trying to walk directly into the traffic. § 87(2)(b) slowed down enough to swerve onto the left lane and proceeded to drive away.

Witness: § 87(2)(b)

§ 87(2)(b) was identified via the Event Information. § 87(2)(b) provided a brief telephone statement on February 19, 2014. § 87(2)(g) (encl. 10A).

Civilians Not Interviewed

§ 87(2)(b) was identified as the driver of the vehicle occupied by § 87(2)(b). However, she was not contacted by the investigation because § 87(2)(b) stated that they drove away before officers responded to the scene.

NYPD Statements:

Subject Officer: PO MICHAEL WHOOLEY

- PO Michael Whooley is a § 87(2)(b)-old white male, 5'10" tall, 190 pounds, with brown hair and brown eyes.
- PO Whooley is assigned to the 105th Precinct. On August 12, 2013, PO Whooley worked in uniform from 11:15 p.m. to 7:50 a.m. with PO Thomas Fitzgerald. The officers were assigned to patrol Sector E/F in marked RMP 4421.

Memo Book Entries

PO Whooley recorded in his memo book that on August 12, 2013, at 12:00 a.m., he responded to a report of an emotionally disturbed person (EDP) at the corner of Rockaway Boulevard and Guy R. Brewer Boulevard. At 12:20 a.m., PO Whooley escorted EMS to § 87(2)(b). At 12:50 a.m., the EDP was removed to the hospital. At 1:00 a.m., the incident was finalized as unfounded. (encl. 15A-15C).

CCRB Statement

PO Whooley was interviewed at the CCRB on June 27, 2014 (encl. 15D-15F).

On August 12, 2013, at approximately 12:00 a.m., PO Whooley and his partner, PO Michael Fitzgerald both from the 105th Precinct, responded to multiple calls regarding an emotionally disturbed person, known to the CCRB as § 87(2)(b) in the vicinity of Rockaway Boulevard and Guy R. Brewer Boulevard, in Queens. The callers reported to 911 something to the effect of § 87(2)(b) tried to stop the traffic in the middle of the road or run into cars. Upon arrival at the scene, PO Whooley observed § 87(2)(b) standing in the middle of the street. There was a female, known to the CCRB as § 87(2)(b) and a male, known to the CCRB as § 87(2)(b) who were also at the scene interacting with § 87(2)(b). PO Whooley did not remember what § 87(2)(b) and § 87(2)(b) told § 87(2)(b).

PO Whooley did not see § 87(2)(b) with a stick or threaten anyone with a stick. PO Whooley did not see § 87(2)(b) have anything in his hands either. PO Whooley did not draw his gun, and he did not remember PO Fitzgerald doing so. PO Whooley did not push § 87(2)(b) on his back, causing § 87(2)(b) to fall down. PO Whooley did not pull § 87(2)(b)'s feet from under him, causing § 87(2)(b) to fall down. PO Whooley did not remember if § 87(2)(b) had any injuries when he first observed him, and PO Whooley did not remember if § 87(2)(b) complained of injuries.

§ 87(2)(b) informed the officers that § 87(2)(b) had escaped for a § 87(2)(b). § 87(2)(b) told the officers that § 87(2)(b) tried to jump in front of his vehicle. § 87(2)(b) was making statements but they did not make sense. § 87(2)(b) at times tried to walk away and at times run away from the officers, PO Whooley instructed § 87(2)(b) to turn around and place his hands behind his back. § 87(2)(b) complied and PO Whooley handcuffed him. § 87(2)(b) was handcuffed standing up. PO Fitzgerald did not assist PO Whooley with handcuffing § 87(2)(b). § 87(2)(b) was not placed on the ground prior to being handcuffed.

§ 87(2)(b) was then placed in the police vehicle for his safety but § 87(2)(b) resisted by pulling away. PO Whooley and PO Fitzgerald were able to place § 87(2)(b) inside

their vehicle and closed the door despite § 87(2)(b)'s resistance. PO Whooley called for an ambulance and one was dispatched to the location.

Approximately one minute after being placed in the police vehicle § 87(2)(b) began kicking the windows in the vehicle. § 87(2)(b) said something but PO Whooley could not understand him. PO Whooley and PO Fitzgerald pulled § 87(2)(b) out of their vehicle. PO Whooley did not remember on which side of the vehicle they were standing. PO Whooley grabbed § 87(2)(b)'s upper body in order to pull him out of the vehicle. PO Whooley did not remember where in the body PO Fitzgerald grabbed § 87(2)(b) and he did not remember if they were on the same side of the vehicle when pulling § 87(2)(b) out.

PO Whooley did not remember how § 87(2)(b) was positioned once he was pulled out of the vehicle. § 87(2)(b) continued pulling away from the officers. PO Whooley did not remember if § 87(2)(b) was placed on the ground once he was pulled out of the vehicle. PO Whooley denied punching § 87(2)(b) upon pulling him out of the vehicle, and he did not see his partner do so. PO Whooley did not use any other force against § 87(2)(b) and he did not see PO Fitzgerald do so. § 87(2)(b) continued trying to pull away from the officers, while they held him in one place. PO Whooley then said that § 87(2)(b) was at one point on the ground but did not remember how he was brought down. § 87(2)(b) was kicking but PO Whooley did not remember if he was kicked. PO Whooley used his hands to hold § 87(2)(b) in place but did not remember where in the body he held § 87(2)(b). PO Whooley did not punch or kick § 87(2)(b) in the head, torso, stomach, ribs or groin area, and he did not see PO Fitzgerald do so. PO Whooley did not stomp on the back of § 87(2)(b)'s knee, and he did not see any officer do so. PO Whooley did not yank § 87(2)(b) by the handcuffs in order to stand him up, and he did not see any officer do so.

PO Whooley and PO Fitzgerald were issuing § 87(2)(b) instructions but PO Whooley did not remember the specifics. PO Whooley did not remember if § 87(2)(b) and § 87(2)(b) said anything to either § 87(2)(b) or the officers. PO Whooley did not strike § 87(2)(b) with his gun, and he did not see PO Fitzgerald do so.

At some point an additional vehicle responded with Sgt. Limage and PO Noll. PO Whooley did not see Sgt. Limage and PO Noll punch, kick or strike § 87(2)(b) with a gun.

When the ambulance arrived, PO Noll and Sgt. Limage helped bring § 87(2)(b) into the ambulance. § 87(2)(b) continued pulling away from the officers and was strapped with Velcro to the stretcher. PO Whooley did not see § 87(2)(b) kick any officer while he was on the stretcher, and he did not hear any officer say that § 87(2)(b) kicked him. PO Whooley did not strike § 87(2)(b) along his spine, and he did not see any officer do so. PO Whooley did not know if § 87(2)(b) ever was unconscious. PO Whooley did not punch § 87(2)(b) inside the ambulance and he did not see any officer do so. PO Whooley did not tell § 87(2)(b) "You are a piece of shit," and he did not hear any officer do so.

EMT § 87(2)(b) told the officers when they were inside the ambulance that § 87(2)(b) was possibly having a seizure. PO Whooley did not remember if § 87(2)(b)'s nose bled. § 87(2)(b) was informed that she was supposed to follow the EMT to the hospital either by him or PO Fitzgerald but she did not.

PO Whooley did not use any additional physical force against § 87(2)(b) besides what he described, and he did not see any officer do so. PO Whooley did not use any profanity during this incident, and he did not hear any officer do so.

Subject Officer: PO THOMAS FITZGERALD

- PO Thomas Fitzgerald is a § 87(2)(b)-old white male, 5'10" tall, 180 pounds, with black hair and green eyes.
- PO Fitzgerald is assigned to the 105th Precinct. On August 12, 2013, PO Fitzgerald

worked in uniform from 11:15 p.m. to 7:50 a.m. with PO Michael Whooley. The officers were assigned to patrol Sector E/F in marked RMP 4421.

Memo Book Entries

PO Fitzgerald recorded in his memo book that at 12:00 a.m., he responded to an EDP in the vicinity of Rockaway Boulevard and Guy R. Brewer Boulevard. At 1:05 a.m., PO Fitzgerald noted that the patient was removed to § 87(2)(b) (encl. 16A-16C).

CCRB Statement

PO Fitzgerald was interviewed at the CCRB on June 27, 2014 (encl. 16D-16F).

§ 87(2)(b) (g)
PO Fitzgerald was on the opposite side of the street when he pulled up. PO Fitzgerald exited his vehicle and spoke to § 87(2)(b) who said that she was an aide to § 87(2)(b) who had ran away from § 87(2)(b). § 87(2)(b) advised PO Fitzgerald that § 87(2)(b) was not well, and PO Fitzgerald saw that § 87(2)(b) was sweating profusely. Additionally, § 87(2)(b) was out of breath and his statements did not make sense. § 87(2)(b) appeared to be unresponsive to the officers' instructions, and he did not communicate with the officers at all. PO Fitzgerald did not observe any injuries on § 87(2)(b) and § 87(2)(b) did not complain of injuries. PO Fitzgerald did not draw his weapon at § 87(2)(b) and he did not see PO Whooley do so. PO Fitzgerald did not threaten to kill § 87(2)(b) and he did not know if PO Whooley made any such statements.

PO Whooley then approached § 87(2)(b) and handcuffed him while § 87(2)(b) was still in the street standing up. PO Fitzgerald pulled the vehicle around to the other side of the street and PO Whooley walked § 87(2)(b) to the sidewalk. § 87(2)(b) began screaming and pulling away from PO Whooley. § 87(2)(b) was screaming nonsense because PO Fitzgerald could not understand him. Because the incident involved an EDP, an ambulance was supposed to respond but was taking too long. PO Fitzgerald put a couple of transitions over the radio asking for the estimated time of arrival of the ambulance. The dispatcher advised PO Fitzgerald that the EMS was on the way.

PO Fitzgerald did not push § 87(2)(b) in his back with both hands, causing § 87(2)(b) to fall down. PO Fitzgerald did not pull § 87(2)(b)'s legs from under him, causing § 87(2)(b) to fall day. PO Fitzgerald did not see PO Whooley push § 87(2)(b) in his back or pull his legs from under § 87(2)(b).

PO Fitzgerald helped PO Whooley place § 87(2)(b) in their vehicle. PO Fitzgerald explained that because § 87(2)(b) was not complaint or responsive to the officers' instructions, he presented a safety concern. After a brief period of time in the vehicle, § 87(2)(b) began thrashing around. PO Fitzgerald and PO Whooley pulled § 87(2)(b) out of the vehicle and placed him against it. PO Fitzgerald and PO Whooley grabbed § 87(2)(b) by his underarms to pull him out. § 87(2)(b) was standing up once he was pulled out of the vehicle.

§ 87(2)(b) went down on the ground but PO Fitzgerald and PO Whooley stood him back up. § 87(2)(b) was on the ground for a brief period of time because his legs gave out. PO Fitzgerald did not remember if § 87(2)(b) went to the ground immediately after being taken out of the vehicle or at a later point. PO Fitzgerald did not yank § 87(2)(b) by his handcuffs in order to stand him up, and he did not see PO Whooley do so. PO Fitzgerald did not hear § 87(2)(b) or § 87(2)(b) make any statements to § 87(2)(b) or the officers. PO Fitzgerald did not recall holding down § 87(2)(b)'s legs or upper body. PO Fitzgerald did not punch or kick § 87(2)(b) in the head, torso, stomach, ribs or groin area, and he did not see PO Whooley do so. PO Fitzgerald did not remember if § 87(2)(b) ever was unconscious. PO

Fitzgerald did not strike § 87(2)(b) with his weapon, and he did not see PO Whooley do so. PO Fitzgerald did not remember if § 87(2)(b) kicked his legs.

An ambulance with EMT § 87(2)(b) and EMT § 87(2)(b) as well as Sgt. Limage and PO Noll arrived. PO Fitzgerald did not remember if any other EMS personnel responded. § 87(2)(b) was placed on the stretcher and taken inside the ambulance. PO Fitzgerald did not have any difficulties placing § 87(2)(b) on the stretcher. § 87(2)(b) did not kick PO Fitzgerald, and PO Fitzgerald did not hear any officer say that he was kicked. PO Fitzgerald did not stomp on the back of § 87(2)(b)'s legs, and he did not see any officer do so. PO Fitzgerald did not strike § 87(2)(b) along his spine or neck, and he did not see any officer do so. PO Fitzgerald did not tell § 87(2)(b) "You are a piece of shit," and he did not hear any officer make that statement.

PO Fitzgerald asked § 87(2)(b) to meet them at the hospital but did not remember if she responded. § 87(2)(b) was strapped to the stretcher with Velcro by the EMTs. PO Fitzgerald did not see any struggle in the ambulance and said he was not in the ambulance for too long. PO Fitzgerald denied punching § 87(2)(b) in the ambulance, and he did not see any officer do so. PO Fitzgerald did not see § 87(2)(b) get a nose bleed in the ambulance, and he did not see § 87(2)(b) display seizure like activity. PO Fitzgerald did not take any action that would cause § 87(2)(b)'s nose to bleed, and he did not see any officer take such action. PO Fitzgerald did not know if Sgt. Limage or PO Noll had any physical contact with § 87(2)(b). Because PO Fitzgerald was the operator, he followed the ambulance to § 87(2)(b) while PO Whooley accompanied § 87(2)(b) to the hospital inside the ambulance.

PO Fitzgerald did not use any additional force against § 87(2)(b) besides what he described, and he did not see any officer do so. PO Fitzgerald did not use any profanity during this incident, and he did not hear any officer do so.

Witness Officer: SGT. JENNIFER LIMAGE

- *Sgt. Jennifer Limage is a § 87(2)(b)-old white female, 5'7" tall, 135 pounds, with brown hair and brown eyes.*
- *Sgt. Limage is assigned to the 105th Precinct. On August 12, 2013, Sgt. Limage worked in uniform from 11:05 p.m. to 8:02 a.m. with PO Christopher Noll. Sgt. Limage was a patrol supervisor and was assigned to a marked RMP 4635.*

Memo Book Entries

Sgt. Limage recorded in her memo book that on August 12, 2013, at 12:10 a.m., she responded to a report of an EDP at Guy R. Brewer Boulevard and Rockaway Boulevard. At 12:30 a.m., Sgt. Limage resumed patrol because the EDP was handled by the officers assigned to the 105th Precinct, Sector E. (encl. 17A-17C).

CCRB Statement

Sgt. Limage was interviewed at the CCRB on August 5, 2014 (encl. 17D-17E).

On August 12, 2013, at approximately 12:10 a.m., Sgt. Limage was at the 105th Precinct stationhouse, when she heard over the radio that there was a motor vehicle accident in the vicinity of Rockaway Boulevard and Brookville Boulevard, in Queens. Sgt. Limage looked in the computer and saw in the description of the incident that someone had jumped in front of a bus, and there were a few calls placed in regards in the same area. PO Whooley and PO Fitzgerald were assigned to handle the job. Sgt. Limage called PO Whooley and PO Fitzgerald on their cell phone to see if the person who was hit by the bus was likely to die and whether they needed her to respond. PO Whooley and PO Fitzgerald informed Sgt. Limage that they were dealing with an EDP, § 87(2)(b) whom they were fighting.

Sgt. Limage realized that the incident PO Whooley and PO Fitzgerald responded was

different from the one where a pedestrian jumped in front of a bus. Sgt. Limage got in a patrol car with PO Noll and responded to the incident with § 87(2)(b) which was in the vicinity of Rockaway Boulevard and Guy R. Brewer Boulevard.

Upon arrival, Sgt. Limage saw one of the officers, she did not remember which one, sitting in his vehicle. The CCRB investigation determined that PO Fitzgerald was in the vehicle and PO Whooley was in the ambulance with § 87(2)(b). The ambulance with § 87(2)(b) was getting ready to leave. There were no other officers at the scene. Sgt. Limage pulled up next to PO Fitzgerald and asked if they were okay. PO Fitzgerald said yes, and Sgt. Limage left the scene for the incident at Rockaway Boulevard and Brookville Boulevard. Sgt. Limage was at the scene with PO Whooley and PO Fitzgerald for approximately one minute before leaving.

Sgt. Limage never saw § 87(2)(b). PO Fitzgerald did not tell Sgt. Limage how he and PO Whooley restrained § 87(2)(b) and no one complained of injuries to Sgt. Limage. PO Fitzgerald did not say whether § 87(2)(b) sustained injuries. Neither Sgt. Limage nor PO Noll had any physical contact with § 87(2)(b). Sgt. Limage did not draw her weapon at the scene, and PO Fitzgerald did not inform Sgt. Limage whether he did so.

Sgt. Limage did not remember if there were any civilians at the scene. Sgt. Limage did not hear § 87(2)(b) scream inside the ambulance. Sgt. Limage did not speak to the EMTs. Sgt. Limage was not informed whether § 87(2)(b) went unconscious. Sgt. Limage did not see blood.

Witness Officer: PO CHRISTOPHER NOLL

- PO Christopher Noll is a § 87(2)(b)-old white male, 6'0" tall, 190 pounds, with brown hair and hazel eyes.
- PO Noll is assigned to the 105th Precinct. On August 12, 2014, PO Noll worked in uniform from 11:15 p.m. to 7:50 a.m. with Sgt. Jennifer Limage. PO Noll was assigned as the sergeant's operator, and worked in a marked RMP 4635.

Memo Book Entries

PO Noll recorded in his memo book that on August 12, 2013, at 12:10 a.m., he responded to a report of an EDP at Guy R. Brewer Boulevard and Rockaway Boulevard. At 12:30 a.m., PO Noll arrived at a motor vehicle accident scene at Rockaway Boulevard and Brookville Boulevard where a pedestrian had been struck. (encl. 18A-18C).

CCRB Statement

PO Noll was interviewed at the CCRB on August 5, 2014 (encl. 18D-18E). § 87(2)(g)

PO Noll did not hear § 87(2)(b) scream in the ambulance. Neither PO Fitzgerald nor PO Whooley told PO Noll whether they got into a physical altercation with § 87(2)(b) or how they placed § 87(2)(b) in custody. PO Fitzgerald and PO Whooley did not appear disheveled or have any injuries. PO Noll did not see any blood on PO Fitzgerald or PO Whooley. Neither PO Fitzgerald nor PO Whooley said that they had to draw their gun or struck § 87(2)(b) with it. PO Noll did not have any physical contact with § 87(2)(b) and he never exited his vehicle. Sgt. Limage did not have any physical contact with § 87(2)(b) and she did not draw her gun. PO Noll did not see PO Fitzgerald, PO Whooley or Sgt. Lamont take any police action at the scene. PO Noll and Sgt. Limage did not speak to any of the EMTs.

Medical Records

Prehospital Care Report Summary

EMT § 87(2)(b) prepared a Prehospital Care Report Summary, in which she noted that she was dispatched to a reported drug or alcohol abuse.

Upon arrival the patient, known to the CCRB as § 87(2)(b) was in handcuffs and throwing himself around as the officers, who were identified by the CCRB investigation as PO Michael Whooley and PO Thomas Fitzgerald from the 105th Precinct, brought him to the ambulance. § 87(2)(b) was fighting and shouting. A female, known to the CCRB as § 87(2)(b) told the EMTs that she worked for § 87(2)(b) from which § 87(2)(b) had escaped. § 87(2)(b) however, did not have any information on § 87(2)(b)

PO Whooley and PO Fitzgerald stated that they found § 87(2)(b) attempting to fight with a bystander, known to the CCRB as § 87(2)(b) § 87(2)(b) had stated that § 87(2)(b) was walking down the street trying to throw himself in front of cars.

§ 87(2)(b) yelled at PO Whooley and PO Fitzgerald while in handcuffs. PO Whooley and PO Fitzgerald placed § 87(2)(b) on the stretcher in the ambulance, where § 87(2)(b) began to rapidly breathe and showed seizure like activity with grunting and tonic-clonic movement. § 87(2)(b) had blood around the nose and spitting blood that was coming from his nose. § 87(2)(b) then calmed down and did not respond to voice and showed focal stare seizure like activity. Blood pressure was not obtained due to § 87(2)(b) being in handcuffs. PO Whooley was on scene throughout the incident. (see Medical Records Folder).

§ 87(2)(b) Medical Records

On § 87(2)(b), § 87(2)(b) was brought to § 87(2)(b) via FDNY ambulance. § 87(2)(b) was administered to the Emergency Department at approximately § 87(2)(b). In the Arrival Information it was noted that § 87(2)(b) was "found walking on the street by police officer as per report." § 87(2)(b) examined § 87(2)(b) and noted that he was accompanied by a police officer with shield number 15621 from the 105th Precinct. § 87(2)(b) had dry blood on the left side of his nose and a skin abrasion to the left knee. § 87(2)(b) was assessed with altered mental status, PTSD and facial trauma and was endorsed to trauma team. § 87(2)(b) was intubated. On § 87(2)(b), Computer Tomography (CT) scan was done with no acute traumatic findings to the head, spine and stomach. However, a mediastinal (chest) hematoma was revealed during the CT scan.

§ 87(2)(b) noted that as per EMS, § 87(2)(b) was in handcuffs when they arrived. § 87(2)(b) was throwing himself around when the police brought him to the ambulance. § 87(2)(b) was fighting with the officers and shouting. A female on scene, known to the CCRB as § 87(2)(b) stated that she worked for the psychiatric facility that § 87(2)(b) escaped from. § 87(2)(b) did not have any information on § 87(2)(b) and only stated that she was from the psychiatric facility. The officers stated that they found § 87(2)(b) attempting to fight with a bystander. The bystander stated that § 87(2)(b) was walking down the street and trying to throw himself in front of cars. § 87(2)(b) was brought to the hospital as "unknown" and in handcuffs. § 87(2)(b) was screaming and yelling at the officers. § 87(2)(b) began to breathe rapidly and showed signs of seizure like activity with grunting and tonic clonic movement. § 87(2)(b) had blood around his nose and had blood coming from his nose. § 87(2)(b) then calmed down and did not respond to voice and showed focal stare. His seizure like activity lasted approximately three minutes.

§ 87(2)(b)

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NYPD Documents

Event No. § 87(2)(b)

On August 11, 2013, a male caller, who identified himself as § 87(2)(b) known to the CCRB as § 87(2)(b) call back number § 87(2)(b), called to report a dark-skinned, 6'0" tall black male in a white t-shirt, white shorts and short hair. § 87(2)(b) reported that the male was walking against traffic near the five towns shopping area, in the vicinity of Rockaway Boulevard and Guy R. Brewer Boulevard. § 87(2)(b) said that the male was possibly intoxicated and that he was walking between lanes.

Another caller, who identified himself as § 87(2)(b) known to the CCRB as § 87(2)(b) § 87(2)(b) call back number § 87(2)(b), called 911 to report a male walking east bound on a highway. § 87(2)(b) described the male as 5'9" tall black male, wearing white shorts.

The central dispatcher did not have any highway units available and dispatched officers assigned to the 113th Precinct, Sector A. The officers assigned to Sector A said that the incident was within the confines of the 105th Precinct.

A female caller, who identified herself as Orlee, known to the CCRB as § 87(2)(b) call back number § 87(2)(b), called to report that about two minutes ago a black male kept walking onto the street was almost hit by car.

Another caller, who identified himself as § 87(2)(b) known to the CCRB as § 87(2)(b) § 87(2)(b) call back number § 87(2)(b), called 911 to report that at Rockaway Boulevard and Guy R. Brewer Boulevard, a male was trying to commit suicide by running into vehicles. The male is about 15 to 17 years old, wearing a white t-shirt and white pants. The male is aggressive and is from a mental ward as per employee from the facility. There were no weapons involved. § 87(2)(b) and the male were on Rockaway Boulevard.

The officers assigned to the 105th Precinct, Sector E, responded to the location and asked to rush the ambulance. The officers assigned to Sector E said that the male was violent and needed to be transported to a hospital. (encl. 19a-19J).

Other Evidence

On October 30, 2013, a search of Google Maps disclosed that it would take approximately eighteen minutes by car to travel from § 87(2)(b), which is the address to § 87(2)(b)'s facility, to the intersection of Rockaway Boulevard and Guy R. Brewer Boulevard (encl. 3A).

Status of Civil Proceedings

- A Notice of Claim request is pending with the Comptroller's Office (encl. 23E).

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilians CCRB History

- This is the first CCRB complaint in which § 87(2)(b) is a victim (encl. 2C).

Subject Officers CCRB History

- PO Fitzgerald has been a member of the service for seven years and there are no substantiated CCRB allegations against him. PO Fitzgerald has no prior CCRB complaints. (encl. 2B).
- PO Whooley has been a member of the service for seven years and there are no substantiated CCRB allegations against him. PO Whooley has a history of complaints with the CCRB. (encl. 2A).

Conclusion

Identification of Subject Officers

§ 87(2)(b) stated that two officers who first responded to the scene, punched and kicked him. PO Thomas Fitzgerald and PO Michael Whooley acknowledged responding to the scene first and the Event for the incident confirmed that. § 87(2)(g)

§ 87(2)(b) also alleged that one of the first responding officers threatened to kill him. § 87(2)(b) did not know which one made the statement. No officer interviewed acknowledged making that statement, and no civilian interviewed heard an officer make that remark. § 87(2)(g)

§ 87(2)(b) alleged that the officer who initially approached and stopped him, described as a 6'3" tall white male, stocky built with short black hair, also struck him in the head with his gun approximately three times. PO Whooley, who is a 5'10" tall white male, 190 pounds and short brown hair, acknowledged stopping § 87(2)(b). PO Fitzgerald explained that he was the operator of the patrol car and PO Whooley was the one who initially approached and handcuffed § 87(2)(b). § 87(2)(g)

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: An officer threatened § 87(2)(b) with the use of force.

§ 87(2)(b) alleged that when PO Fitzgerald and PO Whooley arrived, one of them threatened to hit § 87(2)(b) with his gun and kill him. § 87(2)(b) did not know which officer made that statement.

§ 87(2)(b) and § 87(2)(b) § 87(2)(g) would have been present for when the comment was made but said they did not hear any officer make such threats. § 87(2)(b) and § 87(2)(b) did not see any officer draw their guns either. PO Whooley and PO Fitzgerald denied threatening to kill § 87(2)(b)

§ 87(2)(g)

Allegation B – Force: PO Michael Whooley used physical force against § 87(2)(b)

Allegation C – Force: PO Thomas Fitzgerald used physical force against § 87(2)(b)

It is undisputed that PO Whooley and PO Fitzgerald used physical force against § 87(2)(b). § 87(2)(b) § 87(2)(b) alleged that PO Whooley pushed him in the back, causing him to fall down and hit his chin. § 87(2)(b) changed his statement and said that PO Whooley grabbed one of his legs, causing him to fall down and scratch his chin. PO Whooley and PO Fitzgerald then began punching and kicking § 87(2)(b) in the head, torso and groin. PO Whooley and PO Fitzgerald kicked § 87(2)(b) approximately 16 times while he was in handcuffs. § 87(2)(b) § 87(2)(b) stated that he “fought for his life,” was shaking and had his hands in handcuffs. § 87(2)(b) § 87(2)(b) then changed his statement and said he tried to push the officers away because they were punching him in his ribs and added that he “was not fighting them.” While in the ambulance, § 87(2)(b) alleged that PO Fitzgerald punched him in the head and twice in the nose, causing his nose to bleed.

PO Whooley denied pushing § 87(2)(b) down because § 87(2)(b) complied with his initial instructions and was handcuffed standing. § 87(2)(b) was placed in the vehicle for safety reasons, where he began kicking windows. PO Whooley and PO Fitzgerald pulled § 87(2)(b) out of the vehicle but § 87(2)(b) continued pulling away from them. PO Whooley denied punching § 87(2)(b) and he did not see PO Fitzgerald do so. PO Whooley did not use any other force against § 87(2)(b) and he did not see PO Fitzgerald do so. PO Whooley did not punch or kick § 87(2)(b) in the head, torso or groin area, and he did not see PO Fitzgerald do so. PO Whooley did not stomp on the back of § 87(2)(b)'s knees, and he did not see any officer do so. PO Fitzgerald corroborated PO Whooley's statement and denied pushing § 87(2)(b) kicking or punching him before or after the ambulance arrived. Sgt. Limage and PO Noll did not see § 87(2)(b) or any officer use force against him. PO Noll and Sgt. Limage denied interacting with § 87(2)(b) physically or verbally.

§ 87(2)(b) and § 87(2)(b) described § 87(2)(b)'s demeanor as threatening and aggressive and both asked him multiple times to calm down and relax. § 87(2)(b) and § 87(2)(b) corroborated PO Fitzgerald and PO Whooley's statements. Both § 87(2)(b) and § 87(2)(b) § 87(2)(b) stated that PO Whooley and PO Fitzgerald wrestled down § 87(2)(b) once he was pulled out of the patrol car and held him down. § 87(2)(b) and § 87(2)(b) did not see any officer push § 87(2)(b) to the ground, punch or kick him.

EMT § 87(2)(b) stated that she saw four officers holding § 87(2)(b) down and heard one officer say that he was kicked. § 87(2)(b) was throwing himself around, kicking, flailing and spitting. § 87(2)(b) was screaming but not anything in particular. EMT § 87(2)(b) did not see any officer punch § 87(2)(b) in the ambulance.

EMT § 87(2)(b) however, provided an account of what happened that was drastically

different from everyone else. EMT § 87(2)(b) stated that he saw officers stomp on the back of § 87(2)(b) s knees. Once § 87(2)(b) was placed on the stretcher, the officers hammered § 87(2)(b) s back with their hands clasped together.

The Prehospital Care Report Summary noted that § 87(2)(b) was throwing himself around, was fighting and shouting. Upon being placed in the ambulance, § 87(2)(b) exhibited seizure like activity. § 87(2)(b) s medical records noted dry blood on left side of his nose and skin abrasion to left knee. A CT scan was done with no acute traumatic findings to the head, spine and stomach. However, a mediastinal hematoma was revealed. § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

P.G. 203-11 directs officers to use the minimum amount of force necessary to overcome resistance when making an arrest or taking an emotionally disturbed person in custody (encl.1A-1B).

§ 87(2)(g)

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§ 87(2)(g)

Allegation D – Force: PO Michael Whooley struck § 87(2)(b) with a gun.

§ 87(2)(b) alleged that PO Whooley struck him in the head with his gun approximately three times, causing § 87(2)(b) to lose consciousness.

PO Whooley denied striking § 87(2)(b) with his gun, and PO Fitzgerald corroborated PO Whooley's statement.

§ 87(2)(b) EMT § 87(2)(b) and EMT § 87(2)(b) did not see any officer strike § 87(2)(b) with a gun on his head. § 87(2)(b) s medical records do not indicate any injuries to his head, and he did not complain of being struck in the head with a gun to the medical personnel.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Team: 4

Investigator: _____ Stanislav A. Sazonov 09/10/2014
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
 Title/Signature Print Date